IN THE HIGH COURT OF GUJARAT AT AHMEDABAD SPECIAL CIVIL APPLICATION No 193 of 1996

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

- Whether Reporters of Local Papers may be allowed to see the judgements? No.
- 2. To be referred to the Reporter or not? No.
- 3. Whether Their Lordships wish to see the fair copy of the judgement?
 No

of the judgement?

No

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- 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?No
- 5. Whether it is to be circulated to the Civil Judge?No.

NAGINBHAI MATHURBHAI PATEL THROUGH HIS POWER OF ATTORNEY

Versus

STATE OF GUJARAT

Appearance:

 $$\operatorname{MR}$ K.M. SHETH FOR MR GM AMIN for Petitioner MR URAIZEE, AGP, for the respondents.

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 26/11/96

ORAL JUDGEMENT

Heard learned advocates for the parties.

Petitioner is occupant of land bearing Survey
No.98, admeasuring 6 Are - 7 sq.mtrs, situated at village
Rayan Talavdi, Taluka Vaghodia, District Bharuch.

The Deputy Collector, Dabhoi, initiated action under Section 65 of the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as 'the Act') by issuing a notice to the petitioner. In response to the notice, the petitioner remained present before the competent authority and produced a panchnama and village records indicating that the land in question was being

cultivated by the petitioner.

However, on examination of the records, it has been found that the petitioner had ceased to cultivate the land since 1983 and that grass grew naturally on the said land. Further, the petitioner had made an application for permission for non-agricultural use of the said land. The petitioner has not been able to refute the allegation that the petitioner did not cultivate the land since 1983 till 1994. In the circumstances, it cannot be said that the action of the competent authority in invoking the provisions contained in Section 65 of the Act is in any manner illegal or bad in law.

Only contention which was raised before me was that no notice was issued before taking action under Section 65 of the Act. This contention is devoid of any merit, because the impugned order dated 30th October 1995 itself indicates that the notice was issued and the required time was also granted to the petitioner for production of records. Accordingly, the petitioner did appear before the competent authority and had produced the relevant materials in support of his defence. No other contention has been raised before me.

In the result, this petition is dismissed. Interim relief is vacated. Rule is discharged with no order as to costs.

Learned advocate Mr.K.M. Sheth appearing for the petitioner, however, states that the petitioner shall make an application to the competent authority for grant of the very land for agricultural purpose. It is directed that, if such an application is made, the same shall be decided by the competent authority in accordance with law.

**** (swamy)